

Notice of Allowability

Application No.

10/813,571

Examiner

Nikita Wells

Applicant(s)

KUZAN ET AL.

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to "Response and Amendment" received 16 March 2006.
2. ☒ The allowed claim(s) is/are 1-16.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

Nikita Wells
Primary Examiner
Art Unit: 2881

DETAILED ACTION

Allowable Subject Matter

1. Claims 1-16 are allowed.
2. The following is an examiner's statement of reasons for allowance:

The Applicant amended claims 1, 9, 10, and 12, and presented arguments in favor of allowance of the amended claims according to the "Response and Amendment" received March 16, 2006. With respect to the independent claims 1 and 12, the Applicant demonstrated to the Examiner's satisfaction that the 35 U.S.C. §103(a) rejection over the primary reference of DeWinter et al. (6,866,461) is not applicable to the Applicant's invention. With respect to claim 1, DeWinter et al., as well as any other prior art, fail to disclose an automatic sample holder for use in association with a mass spectrometer with at least one vial containing a liquid sample, the loader comprising: a vial block having at least one vial cavity, each vial cavity adapted to receive a vial; an insertion head adapted to be sealingly engageable in the vial cavity; an insertion tube operably connected to the mass spectrometer through the insertion head, such that the tube extends into the vial when the insertion head is sealingly engaged in the vial cavity; a means for pushing the liquid sample out of the vial and into the tube; and a means for moving the insertion head relative to the vial block from an engaged position to a disengaged position. With respect to claim 12, DeWinter et al., as well as any other prior art, fail to disclose a method of loading a sample for a mass spectrometer, comprising the steps of: advancing a vial cavity having a vial with a liquid sample therein into a predetermined position relative to an insertion head; lowering the insertion head into the vial cavity; coupling the insertion head into the vial cavity; applying

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pressure to the vial cavity whereby the liquid sample is drawn into the insertion head; decoupling the insertion head from the vial cavity.

Therefore, the independent claims 1 and 12 are allowed. The dependent claims 2-11 and 13-16 are allowed by virtue of their dependence upon claims 1 and 12, respectively.

3. The objection with respect to claim 10 is herewith removed. The Examiner agrees that there is no problem with lacking antecedent since "waste tube" has been disclosed in claim 6, as pointed out by the Applicant.

Conclusion

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

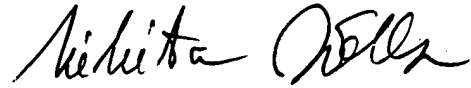
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nikita Wells whose telephone number is (571) 272-2484. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R Lee can be reached on (571) 272-2477. The central fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Nikita Wells". The signature is fluid and cursive, with the first name "Nikita" written in a larger, more prominent script than the last name "Wells".

Nikita Wells, Primary Examiner
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May 9, 2006